

Silver Bull Resources, Inc.
(Claimant)

v.

United Mexican States
(Respondent)

(ICSID Case No. ARB/23/24)

PROCEDURAL ORDER NO. 5
On the Organization of the Hearing

Members of the Tribunal

Mr. Ian Glick KC, President of the Tribunal
Mr. Stephen L. Drymer, Arbitrator
Prof. Philippe Sands KC, Arbitrator

Secretary of the Tribunal

Ms. C. E. Salinas Quero

18 September 2025

I. INTRODUCTION

1. Pursuant to Section 19.1 of Procedural Order No. 1, a Pre-Hearing Organizational Meeting for the organization of the Hearing on Jurisdiction and Merits (the “**Hearing**”) was held by videoconference between the President of the Tribunal and the Parties on 8 September 2025, at 05:00 p.m. (CET). Participating were:

Tribunal

Mr. Ian Glick, KC

ICSID Secretariat

Ms. C. E. Salinas Quero, Secretary of the Tribunal

On behalf of the Claimant

Mr. Timothy L. Foden

Mr. Tim Smyth

Boies Schiller Flexner (UK) LLP

100 Fetter Lane

London EC4A 1ES

United Kingdom

Tel.: +44 203 908 0729

Email addresses:

[REDACTED]
[REDACTED]

Mr. Nicolás Caballero Hernández

Boies Schiller Flexner LLP

55 Hudson Yards

New York, NY 10001

United States of America

Tel.: +1 (212) 446-2300

Email address:

[REDACTED]

Mr. Julio C. Gutiérrez Morales

Mr. Ricardo Ríos Ferrer

Ríos Ferrer + Gutiérrez, S.C.,

Insurgentes Sur 1605, Piso 12

Colonia San José Insurgentes

03900, Ciudad de México,

México

Tel.: +52 55 5980 0372

Email addresses:

[REDACTED]
[REDACTED]

On behalf of the Respondent

United Mexican States

Mr. Rafael Rodríguez Maldonado, Secretaría de Economía

Mr. Rafael Alejandro Augusto Arteaga Farfán, Secretaría de Economía
Ms. Pamela Hernández Mendoza, Secretaría de Economía
Ms. María Daniela Parra Hernández, Secretaría de Economía
Mr. Sergio Alonso Patiño Reyes, Secretaría de Economía
Mr. Rosa María Baltazares Gómez, Secretaría de Economía

Greg Tereposky, Tereposky & DeRose LLP
Daniel Hohnstein, Tereposky & DeRose LLP
Alejandro Barragan, Tereposky & DeRose LLP

2. During the meeting, the Tribunal and the Parties discussed the draft procedural order circulated to them on 29 July 2025, and the Parties' joint comments of 5 September 2025, advising the Tribunal of the agreements reached and their respective positions where no agreement was reached on the organization of the Hearing.
3. A recording of the meeting was uploaded to Box on 8 September 2025.
4. The Tribunal has considered the Parties' positions and, in the present Order, sets out the procedural rules upon which the Parties have agreed and/or the Tribunal has determined will govern the conduct of the Hearing.

II. ORGANIZATION OF THE HEARING

A. DATE AND FORMAT

5. The Hearing will be held in person in Washington, D.C. on 6-10 October 2025, with 11 October kept in reserve.
6. The Hearing will be held at ICSID's Hearing Center located at 1225 Connecticut Ave., NW, Washington, D.C.
7. Pursuant to Section 14 of Procedural Order No. 2, the Hearing shall be closed to the public. On 18 August 2025 the Non-Disputing Treaty Parties (the United States and Canada) were reminded of the dates of the Hearing and asked if they planned to attend the hearing and, if so, to make any oral submissions.

B. START/END TIME, TIME ALLOCATION, AND AGENDA

(i) Start/end time

8. The Hearing will start each day at 09:00 a.m. (EDT), but for Friday, 10 October when it will start at 10:00 a.m. (EDT). Hearing days are expected to conclude by 05:00 p.m. (EDT), at the latest and may conclude earlier each day. However, on Thursday, 9 October, the Hearing will conclude at 01:00 p.m. (EDT). There will be a one-hour lunch break and one 15-minute coffee break in the morning and one in the afternoon, and such other breaks as the President considers appropriate in the circumstances.

(ii) Agenda

9. In accordance with Section 19.2 of Procedural Order No. 1, not later than 22 September 2025, the Parties will present to the Tribunal a jointly -or where they are unable to agree- separately – a proposal regarding the daily schedule for the Hearing. The Tribunal invited the Parties to use the format incorporated as **Annex A** (the “**Agenda**”).
10. During the Hearing, the Parties shall make a good-faith effort to adhere to the schedule reflected in the Agenda. The Tribunal reserves discretion to adjust the schedule as needed to accomplish the prescribed Agenda and to accommodate any technical disruptions.

(iii) Time allocation

11. A total of 39 hours are reserved for Days 1-6 of the Hearing, assuming that it will finish on Saturday 11 October at 01:00 p.m. (EDT). After excluding time reserved daily for lunch, breaks, the oral submissions by the Non-Disputing Parties and housekeeping matters, 30 hours of effective hearing time are left. The Tribunal reserves 1 hour for any extended questioning. This results in 29 hours of time to be divided equally between the parties, *i.e.*, 14 hours and 30 minutes for each Party, inclusive of any opening statements. By the end of the third Hearing Day (*i.e.*, Wednesday, 8 October) the Tribunal in consultation with the Parties will determine if the Hearing can finish on Friday or whether the reserved day (Saturday) shall be used in part or in full.
12. Each Party shall be allowed a maximum of 2 hours and 30 minutes in total for each Party’s opening statement.
13. In calculating time used during the Hearing, the Tribunal incorporates the following presumptions:
 - 13.1. Time spent by a Party on direct and re-direct examination, as well as on expert presentations (if any), shall count against the Party presenting the witness or expert. Time spent by a Party on oral argument, and on the cross examination of the other Party’s witnesses or experts, is counted against that Party’s time.
 - 13.2. Time attributable to minor Tribunal questions to counsel or witnesses, to clarify points being made or answers given, shall not interrupt the clock for the Party otherwise conducting that argument, but any extended Tribunal questioning will be allocated to reserved Tribunal time.
 - 13.3. Time spent on addressing any logistical or housekeeping matters, will not be subtracted from the Parties’ allotted time.
 - 13.4. Time spent by the Non-Disputing NAFTA Parties in any oral submissions shall not be deducted from the Parties’ allocated time.

13.5. Time spent on incidental procedural discussions will not be allocated to Party time, but, in the event of significant applications or objections requiring extended discussion, time spent resolving the matter may be charged against the Party which unsuccessfully made the application or objection or wrongfully resisted it or may be charged in equal amounts to both Parties, as the Tribunal considers appropriate in the circumstances.

13.6. Lost time, attributed to the late arrival of counsel or witnesses, other than for reasons outside of reasonable Party control, will be charged against the Party responsible.

13.7. The Parties are expected to use the Hearing days efficiently and to avoid unnecessary slippage (*e.g.*, requests for extra breaks between witnesses, or to defer the start of an examination until the next day despite time remaining in a given day). To this end, as a general rule, each witness/expert shall be available for examination half a day before and after the time at which his/her examination is anticipated in **Annex A**. In the event of excess slippage, the Tribunal may revisit the length of one or more sitting days; or, in unusual circumstances, the time allocations of the Parties, bearing in mind principles of predictability, equal treatment and a fair opportunity for the Parties to be heard.

13.8. The Secretary of the Tribunal will keep a chess clock account of time used and advise the Parties at the end of each Hearing day of the length of time used.

C. NON-DISPUTING NAFTA PARTIES

14. In accordance with Section 27.2 of Procedural Order No. 1, Non-Disputing NAFTA Parties may attend oral hearings and are entitled to receive a copy of confidential versions of transcripts, written submissions and exhibits, including witness statements and expert reports. Non-Disputing NAFTA Parties shall be made aware of any confidentiality measures, and pursuant to Article 1129 of the NAFTA, shall treat all information received from the Respondent as if they were a disputing party, notably in respect of protection of confidential information.

15. On 18 August 2025, the ICSID Secretariat invited the Non-Disputing NAFTA Parties to inform the Tribunal and the Parties by 25 August 2025 whether they were planning to attend the Hearing and, if so, to provide their lists of participants.

16. On 25 August 2025, the representation of the United States expressed its intention to participate in the Hearing to make an oral submission. The representation of Canada stated that it was not yet in a position to confirm if Canada would make an oral submission at the Hearing. On 5 September 2025, each the United States and Canada presented a written Non-Disputing Party submission under NAFTA Article 1128. On 10 September 2025, Canada informed that it intended to participate remotely and make an oral submission. On 16 September 2025, the United States and Canada each

requested 30 minutes for their respective oral submissions. On 18 September 2025, the Tribunal granted the Non-Disputing Treaty Parties 30 minutes each to make oral submissions.

D. WITNESS AND EXPERT EXAMINATION

17. In accordance with section 18.1 of Procedural Order No. 1, on **5 September 2025** each Party identified the witnesses and experts of its opponent whom it intended to cross-examine at the Hearing.

18. The Claimant called for cross-examination:

Respondent's witnesses:

- Mr. Lorenzo Fraire Hernández
- Mr. Antonio Valdés Pérez
- Mr. Elías Portillo Vásquez

Respondent's experts:

- Dr. Tiago Duarte-Silva
- Mr. Carlos Federico del Razo Ochoa
- Mr. Rodolfo Islas Valdés

19. The Respondent called for cross-examination:

Claimant's witnesses:

- Mr. Christopher Richards
- Mr. Matthew Melnyk
- Mr. Brian Edgar
- Timothy Barry
- Juan Manuel López Ramírez

Claimant's expert

- Mr. Santiago Dellepiane

20. Sections 11.9 – 11.11 of Procedural Order No.1, reproduced below for convenience, apply:

“11.9. The parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing organizational meeting [...], which witnesses or experts require interpretation.

11.10. The hearing will be conducted in Spanish and English with simultaneous interpretation from and into each procedural language.

11.11. The testimony of a witness called for examination during the hearing who prefers to give evidence other than in the English and Spanish languages shall be interpreted simultaneously into English and Spanish.”

21. In accordance with Section 11.9 of Procedural Order No. 1, on **5 September 2025**, the Claimant notified that Mr. López Ramírez required Spanish to English interpretation; and the Respondent notified that Mr. Fraire, Mr. Valdés Pérez, Mr. Portillo Vásquez, Mr. del Razo Ochoa and Mr. Islas Valdés required Spanish to English interpretation.
22. The rules set out in Section 18 of Procedural Order No. 1 for the examination of witnesses and experts are confirmed. For convenience, the relevant rules of Section 18.9 of Procedural Order No. 1 are reproduced below:

“18.9. At the hearing, the examination of each witness shall proceed as follows:

18.9.1. The party who has presented the witness may briefly examine the witness for purposes of asking introductory questions, including about any corrections to be made to the written statement, and of addressing matters which have arisen after the last opportunity for the party who presented the witness to file witness statements (direct examination). In principle, direct examination shall not exceed 10 minutes;

18.9.2. In lieu of direct examination, any expert giving oral evidence may give a presentation summarizing her or his expert report(s) not exceeding 30 minutes;

18.9.3. The other party may then cross-examine the witness about relevant facts within the witness’ knowledge but not necessarily limited to facts addressed in the witness statement;

18.9.4. The party who has presented the witness may then re-examine the witness with respect to any matters or issues arising out of the cross-examination (if it so chooses);

18.9.5. Re-cross examination may exceptionally be allowed in the Tribunal’s discretion;

18.9.6. The Tribunal may ask its questions at any time, likely mainly at the end of the examination.”

23. By **22 September 2025**, the Parties shall submit a joint Agenda referred to in Section 9. In the Agenda, each Party shall indicate on the joint Agenda the estimated duration of their respective direct, cross and re-direct examinations of fact witnesses and experts. The estimated duration of the Parties’ respective examinations is provided for reference but will not limit any Party’s right to continue the examination of a witness or expert, subject to that Party’s total allocated time. Nothing prevents the parties from allocating their time, as they deem necessary.

24. The Party whose witness or expert has been called for cross-examination must make the witness or expert available for the Hearing. If a witness or expert has been called to testify by the adverse Party but the witness or expert does not appear at the Hearing, that witness's or expert's testimony shall be stricken from the record unless the Tribunal finds that there have been justifiable circumstances that prevent him or her from testifying.
25. Examination by videoconference may be permitted, for good reasons, based on a reasoned written application, at the discretion of the Tribunal. Applications should be submitted to the Tribunal by September 5, 2025. The Tribunal may provide further directions for examinations by videoconference.
26. *Witness declaration:* Before giving evidence, each fact witness shall make the declaration provided for in Arbitration Rule 38(6) and each expert witness shall make the declaration provided for in Arbitration Rule 38(8).
27. In accordance with Section 18.10. of Procedural Order No. 1, fact witnesses shall be examined prior to expert witnesses, the Claimant's fact (and expert) witnesses being examined prior to the Respondent's fact (and expert) witnesses and each Party determining the order of the fact witnesses whom it presents.
28. *Witness sequestration:* In accordance with Section 18.11 of Procedural Order No. 1, fact witnesses shall not be present in the hearing room during oral testimony and arguments, or read the transcript of oral testimony or argument, prior to his or her examination. This limitation does not apply to expert witnesses. Party representatives who are also fact witnesses may be present during opening submissions and shall be examined in the first instance prior to that Party's other witnesses. For the avoidance of doubt, if there is more than one Party-representative for one Party, the second Party-representative to be examined would be excluded from the hearing room only for the period of examination of the first Party-representative witness. Once a witness has completed his or her examination, that witness may remain in the hearing room thereafter.
29. Section 18.12 of Procedural Order No. 1 applies, and is reproduced below for convenience:

“18.12. The Tribunal shall, at all times, have complete control over the procedure for hearing a witness. In particular, but without limiting the foregoing, the Tribunal may in its discretion:

18.12.1. Limit or refuse the right of a party to examine a witness when it appears that a question has been addressed by other evidence or is irrelevant; or

18.12.2. Direct that a witness be recalled for further examination at any time.”

30. In addition, the examination of each witness and expert is subject to the following rules:
- 30.1. The witness or expert shall have an unannotated copy of their witness statement(s) or expert report(s) before them during their examinations including all exhibits thereto. The Party that presented the witness or expert is responsible for providing such materials. Further, the Party that presented each expert witness shall provide such expert with copies of the expert reports of his/her counterpart (if applicable), for ease of reference during examination. Other than these materials, witnesses shall not have notes or other material before them during their examination.
- 30.2. The Party conducting the cross-examination shall provide an electronic copy of the cross-examination bundle (*i.e.* a bundle of exhibits or legal authorities on the record to which the witness or expert is to be referred, including an index identifying the relevant tab and exhibit / legal authority number) immediately before the cross-examination to a designated folder in the BOX file sharing platform and send a copy to the entire case e-mail distribution. At the beginning of each witness or expert direct examination, the Party conducting the cross-examination will provide hard copies to be distributed among the witness or expert being cross-examined (one copy), the Tribunal (two copies) and the other Party (two copies). Mr. Drymer wishes to receive only the index or table of contents in hard and soft copy of any cross-examination bundle. No witness or expert shall review such bundle before testifying. Documents will be shown electronically by each party and displayed in screens in the hearing room.
- 30.3. The Tribunal may instruct the Parties to provide the court reporters and interpreters with an electronic copy of a cross-examination bundle before the start of a cross-examination, should they require it.
- 30.4. A Party is not limited to the use of the cross-examination bundle and may refer the witness or expert to any document on the record electronically during cross-examination.
- 30.5. The witnesses and experts are entitled to ask to be shown a full copy of any exhibit or authority on which they will be questioned (*i.e.*, they are not to be restricted to reviewing documents shown on a screen).
- 30.6. If a fact or expert witness's cross-examination is interrupted and must continue in the following session, the fact or expert witness will be instructed that they may not speak with anyone about the case or the subject of the dispute until the examination is completed. To avoid potential disputes, the fact or expert witness shall minimize contact even on other subjects with the Parties, their representatives or counsel until the examination is completed. The Parties will use their best efforts to try to complete the examination of a given fact or expert witness on the same day.

E. ELECTRONIC CASE FILE

31. In accordance with Section 13.5. of Procedural Order No. 1, and the agreement of the Parties of 15 September 2025, the Parties shall by **19 September 2025** upload to Box as a single .zip file an electronic copy of the case file (including pleadings, witness statements, expert reports, exhibits, NDP Submission and Parties' comments, legal authorities and Tribunal decisions and orders to date, with a consolidated hyperlinked index of all documents) (the "**Electronic Case File**"). The Electronic Case File shall not contain any document not previously filed.
32. In accordance with Section 13.6 of Procedural Order No. 1, by the same date as above, the Parties shall courier an electronic copy of the case file to Mr. Glick and Mr. Drymer in a USB drive to the addresses indicated in this Order.¹
33. Documents that are not part of the record may not be exhibited at the Hearing without the prior leave of the Tribunal.

F. DEMONSTRATIVE EXHIBITS

34. Sections 16.8 through 16.10 of Procedural Order No. 1 apply and are reproduced below for convenience:

"16.8. The parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc. compiling information which is on record but not presented in such form), provided that they (i) identify the source in the record from which the information is derived, (ii) do not contain information not in the record.

16.9. An electronic copy of each demonstrative exhibit and PowerPoint slides shall be distributed by the party intending to use it via an electronic mail sent to the entire case email distribution for each party, the Members

¹ The USB for Mr. Glick shall be sent to:

One Essex Court, London

Temple

London EC4Y 9AR

United Kingdom

The USB for Mr. Drymer shall be sent to:

Woods

2000, avenue McGill College, #1700

Montreal (Quebec) H3A 3H3

Canada

of the Tribunals, the Tribunal Secretary, to the court reporter and to the interpreters at least 1 hour prior to their use, with the exception of those demonstrative exhibits and slides and to be used by experts which can be distributed up to 30 minutes prior to their use.

16.10. In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the parties shall upload such demonstrative to the case folder in the BOX filesharing platform, designating each with the corresponding CD-__ or RD-__ number.”

G. AUDIO AND VIDEO RECORDINGS

35. In accordance with Section 22.1 of Procedural Order No. 1, the Hearing shall be recorded, and the recording shall be provided to the Parties and the Tribunal.

H. TRANSCRIPTION

36. In accordance with Section 22.2 of Procedural Order No. 1, real-time court reporting in Spanish and English shall be provided to the Parties and the Tribunal on a same-day basis.
37. In accordance with Section 22.3. of Procedural Order No. 1, the Parties shall agree on any corrections to the transcripts within 45 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the court reporter in the transcripts (“revised transcripts”). The Tribunal shall decide upon any disagreement between the Parties and any correction adopted by the Tribunal shall be entered by the court reporter in the revised transcripts.

I. POST-HEARING MEMORIALS AND STATEMENTS OF COSTS

38. The Parties will submit post-hearing briefs in lieu of closing statements. Each Party’s post-hearing briefs shall not exceed 75 pages. The Parties and the Tribunal will discuss the scope of the issues to be addressed in the post-hearing briefs at the conclusion of the Hearing, at which moment the Tribunal may also revisit the page limit of the post-hearing briefs. No new evidence may be produced together with the post-hearing briefs, except with leave from or on request of the Tribunal.
39. The Tribunal will issue directions on the Parties’ statements of costs at the end of the Hearing.

J. PARTICIPANTS

40. Each Party shall provide its respective list of Hearing participants by **22 September 2025**, using the format provided in **Annex B**.

41. The ICSID Secretariat has reserved a hearing room and break out rooms for each Party and the Tribunal.

L. VIRTUAL HEARING ARRANGEMENTS

42. The Hearing will be simultaneously streamed via Zoom in accordance with how ICSID usually arranges it. For any Remote Participant the Secretary of the Tribunal will provide a connection via Zoom (“Hearing Platform”). The details to join the Hearing Platform will be shared by the Secretary of the Tribunal in advance of the Hearing and the Hearing Platform will be available via the same link throughout the entire Hearing.
43. Remote Participants are subject to the same obligations of confidentiality as all other attendees.
44. Remote Participants may receive access to the remote Hearing transcript.

For the Tribunal,

[Signed]

Mr. Ian Glick, KC
President of the Tribunal
Date: 18 September 2025

ANNEX A

AGENDA

DAY 1 – Monday, 6 October 2025	
09:00 – 09:15	Housekeeping
09:15 - XX	Claimant's Opening Statement [X minutes]
	Coffee break [15 minutes]
	Respondent's Opening Statement [X-minutes]
	[Submission by Non-Disputing NAFTA Party] [X-minutes]
	Lunch [1 hour]
	[...]
	[...]
	Coffee break [15 minutes]
	[...]
17:00	End of Day 1

DAY 2 – Tuesday, 7 October 2025	
09:00 – 09:15	Housekeeping
09:15 - XX	[...]
	Coffee break [15 minutes]
	Lunch [1 hour]
	Coffee break [15 minutes]
	[...]
17:00	End of Day 2

DAY 3 – Wednesday, 8 October 2025	
09:00 – 09:15	Housekeeping
09:15 - XX	[...]
	Coffee break [15 minutes]
	Lunch [1 hour]
	Coffee break [15 minutes]
	[...]
17:00	End of Day 3

DAY 4 – Thursday, 9 October 2025	
09:00 – 09:15	Housekeeping
09:15 - XX	[...]
	Coffe break [15 minutes]
13:00	End of Day 4

DAY 5 – Friday, 10 October 2025	
10:00 – 10:15	Housekeeping
10:15 - XX	[...]
	Coffee break [15 minutes]
	Lunch [1 hour]
	Coffee break [15 minutes]
	[...]
17:00	End of Day 5

DAY 6 – Saturday, 11 October 2025	
09:00 – 09:15	Housekeeping
09:15 - XX	[...]
	Coffe break [15 minutes]
13:00	End of Day 6

ANNEX B

LIST OF PARTICIPANTS

To be provided in the following format

Tribunal			
	<i>Name</i>	<i>Role</i>	<i>Email address</i>
1.	Ian Glick	President	
2.	Stephen Drymer	Arbitrator	
3.	Philippe Sands	Arbitrator	
4.	C. E. Salinas Quero	Secretary of the Tribunal	

Claimant [please include party representatives, counsel, witnesses and experts]				
	<i>Name</i>	<i>Role</i>	<i>Email address</i>	<i>Remote or In-Person</i>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Respondent [please include party representatives, counsel, witnesses and experts]				
	<i>Name</i>	<i>Role</i>	<i>Email address</i>	<i>Remote or In-Person</i>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

10.			
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United States of America				
	<i>Name</i>	<i>Role</i>	<i>Email address</i>	<i>Remote or In-Person</i>
1.	Ms. Lisa Grosh	Assistant Legal Adviser		In-Person
2.	Mr. David Bigge	Chief of Investment Arbitration		In-Person
3.	Ms. Mary Muino	Attorney-Adviser		In-Person

Canada				
	<i>Name</i>	<i>Role</i>	<i>Email address</i>	<i>Remote or In-Person</i>
1.	Ms. Sylvie Tabet	General Counsel at Global Affairs Canada		Remote
2.	Mr. Jean-Francois Hebert	General Counsel at Global Affairs Canada		Remote
3.	Ms. Florence Beaudet	Counsel at Global Affairs Canada		Remote
4.	Ms. Dayeon Min	Counsel at Global Affairs Canada		Remote
5.	Ms. Marianna Maza Pinero	Paralegal at Global Affairs Canada.		Remote

Interpreters and Court reporters				
	<i>Name</i>	<i>Role</i>	<i>Email address</i>	<i>Remote or In-Person</i>
1.	Mr. Dante Rinaldi	Spanish court reporter		In-Person
2.	Ms. Dawn Larsson	English court reporter		In-Person
3.	Ms. Silvia Colla	Spanish⇌English interpreter		In-Person
4.	Mr. Daniel Giglio	Spanish⇌English interpreter		In-Person
5.	Mr. Charlie Roberts	Spanish⇌English interpreter		In-Person